

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7840

Petition of YourTel America, Inc., for )  
designation as an Eligible Telecommunications )  
Carrier on a wireless basis for low income )  
support in areas served by non-rural telephone )  
companies under the Telecommunications Act )  
of 1996 )

Order entered: 10/25/2013

**ORDER RE: MOTION TO DISMISS**

**I. PROCEDURAL HISTORY**

On August 10, 2011, the Vermont Public Service Board ("Board") granted a certificate of public good ("CPG") to YourTel America, Inc. ("YourTel") to provide Commercial Radio Services ("CMRS") in Vermont.<sup>1</sup> On October 18, 2011, YourTel filed a petition with the Board for designation as an Eligible Telecommunications Carrier ("ETC") on a wireless basis throughout the service territory of Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications, an incumbent local exchange carrier. YourTel sought this designation for the purpose of receiving federal universal service support to provide wireless services, pursuant to Section 214(e) of the Telecommunications Act of 1996, in order to provide lifeline services supported by the Low Income Lifeline Program Universal Service Fund ("Lifeline Program or Lifeline").

On February 27, 2012, YourTel filed a motion to amend its petition in response to supervening orders issued by the Federal Communications Commission ("FCC") affecting the Lifeline Program and requirements for ETC status. I granted the motion on March 8, 2012.

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1. *Petition of YourTel America, Inc.*; CPG No. 940-CM dated 8/10/11.

I convened a prehearing conference on February 28, 2012, and adopted a proposed schedule submitted by the parties. The Vermont Department of Public Service ("Department") is the only other entity that is a party to this proceeding.

On April 25, 2012, YourTel filed a letter with the Board notifying the Board of an agreement in principle with the Department that YourTel's amended petition in this docket satisfies the necessary statutory criteria for ETC designation under 47 USC § 214(e). YourTel represented that the agreement was contingent on receiving approval from the FCC concerning YourTel's request for forbearance under the FCC's "own-facilities" requirement for telecommunications carriers seeking limited ETC designation to participate in the Lifeline Program. Accordingly, YourTel requested a suspension of the schedule in this proceeding and proposed to report to the Board as to the status of the FCC's approval on a monthly basis until YourTel received the FCC's final Order. On May 4, 2012, I approved YourTel's request and suspended the schedule. No further action has occurred in this docket.

On September 25, 2013, YourTel filed a motion requesting summary dismissal of its request for ETC designation and to have its existing CPG revoked.<sup>2</sup> In its Motion, YourTel represented that its business plans no longer included the provision of Lifeline services in Vermont. Lifeline service was the only telecommunications business contemplated by YourTel in Vermont. In addition, YourTel does not serve any Vermont customers nor does it have any active telecommunications operations in the state. Therefore, YourTel seeks to withdraw its request for ETC designation.

YourTel represents that the Department supports the request to dismiss the ETC designation.

Rule 41(a)(2) of the Vermont Rules of Civil Procedure, which applies to Board proceedings pursuant to Board Rule 2.105, provides that a plaintiff may request voluntary dismissal of an action. Because it appears that the only prejudice arising from dismissal of this petition would be to the party seeking ETC designation, namely YourTel, and YourTel is now requesting the dismissal, I conclude that the Board should dismiss the amended petition and close this docket.

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2. The Board issued a separate order revoking YourTel's CPG (CPG No. 940-CM) on October 25, 2013.

This decision is not adverse to the interest of any party, so it need not be circulated to the parties pursuant to 3 V.S.A. § 811. This report is made to the Public Service Board pursuant to 30 V.S.A. § 8.

Dated at Montpelier, Vermont, this 25<sup>th</sup> day of October, 2013.

s/Jay E. Dudley  
Jay E. Dudley  
Hearing Officer

## II. BOARD DISCUSSION

We agree with the conclusion and recommendation of the Hearing Officer and hereby dismiss YourTel's amended petition in this docket.

## III. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The Report of the Hearing Officer is accepted.
2. The motion for dismissal is granted.
3. This docket shall be closed.

Dated at Montpelier, Vermont, this 25<sup>th</sup> day of October, 2013.

<u>s/James Volz</u>	)	
	)	
	)	PUBLIC SERVICE
<u>s/John D. Burke</u>	)	
	)	BOARD
	)	
	)	OF VERMONT
<u>s/Margaret R. Cheney</u>	)	

OFFICE OF THE CLERK

FILED:      October 25, 2013

ATTEST: s/Judith C. Whitney  
Deputy Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*